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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/765,481

01/27/2004

Paul Shirley

MICS:0117 (02-1051)

9550

52142

7590

05/19/2010

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EXAMINER

TOLEDO, FERNANDO L

ART UNIT

PAPER NUMBER

2895

MAIL DATE

DELIVERY MODE

05/19/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|--|---|---|--|
| <p align="center">Advisory Action Before the Filing of an Appeal Brief</p> | <p>Application No. 10/765,481</p> | <p>Applicant(s) SHIRLEY ET AL.</p> | |
| | <p>Examiner Fernando L. Toledo</p> | <p>Art Unit 2895</p> | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 April 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Fernando L. Toledo/
Primary Examiner, Art Unit 2895

Continuation of 11. does NOT place the application in condition for allowance because: Applicant contests that Akram does not show the claimed invention, in particular, Applicant contests that Akram fails to disclose voids in the resist since, according to Applicant, Akram fills the voids in a vibration step 14 (and optional step 16). Applicant also contests that Akram fails to disclose that the second soft baking step is at a higher temperature than the first soft baking step. Examiner respectfully submits that Akram discloses the voids in the resist as shown in column 2, lines 5-8. Also, the claim states that the method is comprising, meaning an open-ended circumstance wherein more steps can be accomplished (such as the vibrating steps of Akram) without them being claimed. Hence the absence of the vibrating step in the claim does not preclude the actions taken by Akram. Therefore, even though Akram discloses a novel way to get rid of the well-known voids in the resist, the claims do not exclude such steps and furthermore, Akram anticipates the existence of the voids in the resist. Applicant also contests that Akram discloses that the first and second soft-bake steps can be done at the same temperature and not the second step being higher than the first. Examiner respectfully submits that in order to distinguish what "higher temperature" Applicant means, the specification (as well as claims 5 and 6) are used to determine in what context Applicant used "higher" since potentially 60.05 degrees is higher than 60.00 degrees. The Examiner then turned to the reference and took the decision that since Akram does only "partial hardening" on the first soft-bake step it should be at a lower temperature since the substrate is processed and cleaned before the second soft-bake step which is intended to drive the solvents away from the resist (hardening the resist) as well as promote better adhesion and relieve stress (column 6, lines 50-55). As for the 35 USC §103 rejection, the arguments are considered moot, since Akram does disclose the voids and hence the obviousness rejection cures the deficiencies Akram has in the dependent claims. Therefore, the 35 USC §102 and §103 rejections stand and are considered proper .